

## SUBCOMMITTEE: SUBCOMMITTEE #2

## HOUSE BILL NO. 1671

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Mullin)

A BILL to amend and reenact §§ 63.2-1505 and 63.2-1506 of the Code of Virginia, relating to child abuse and neglect; investigations by local boards of social services.

**Be it enacted by the General Assembly of Virginia:****1. That §§ 63.2-1505 and 63.2-1506 of the Code of Virginia are amended and reenacted as follows:****§ 63.2-1505. Investigations by local departments.**

A. An investigation requires the collection of information necessary to determine:

1. The immediate safety needs of the child;

2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;

3. Risk of future harm to the child;

4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;

5. Whether abuse or neglect has occurred;

6. If abuse or neglect has occurred, who abused or neglected the child; and

7. A finding of either founded or unfounded based on the facts collected during the investigation.

B. If the local department responds to the report or complaint by conducting an investigation, the local department shall:

1. Make immediate investigation and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;

2. Complete a report and enter it into the statewide automation system maintained by the Department;

3. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family;

4. Petition the court for services deemed necessary including, but not limited to, removal of the child or his siblings from their home;

5. Determine within 45 days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the Department and to the person who is the subject of the investigation. However, upon written justification by the local department, the time for such determination may be extended not to exceed a total of 60 days or, in the event that the investigation is being conducted in cooperation with a law-enforcement agency and both parties agree that circumstances so warrant, as stated in the written justification, the time for such determination may be extended not to exceed 90 days. If through the exercise of reasonable diligence the local department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the total time period allowed for the investigation and determination and documentation of such reasonable diligence shall be placed in the record. In cases involving the death of a child or alleged sexual abuse of a child who is the subject of the report, the time during which records necessary for the investigation of the complaint but not created by the local department, including autopsy or medical or forensic records or reports, are not available to the local department due to circumstances beyond the local department's control shall not be computed as part of the total time period allowed for the investigation and determination, and documentation of the circumstances that resulted in the delay shall be placed in the record. In cases in which the subject of the investigation is a full-time, part-time, permanent, or temporary employee of a school division who is suspected of abusing or neglecting a child in the course of his educational employment, the time period for determining whether a report is founded or unfounded and transmitting a report to that effect to the Department and the person who is the subject of the investigation shall be mandatory, and every local department shall make the required determination and report within the specified time period without delay;

52           6. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant  
53 and parent or guardian and the person responsible for the care of the child in those cases where such person  
54 was suspected of abuse or neglect; and

55           7. If a report of child abuse and neglect is founded, and the subject of the report is or was at the  
56 time of the investigation or the conduct that led to the report a full-time, part-time, permanent, or  
57 temporary employee of a school division located within the Commonwealth, notify the relevant school  
58 board of the founded complaint without delay.

59           Any information exchanged for the purposes of this subsection shall not be considered a violation  
60 of § 63.2-102, 63.2-104, or 63.2-105.

61           C. Each local board may obtain and consider, in accordance with regulations adopted by the Board,  
62 statewide criminal history record information from the Central Criminal Records Exchange and shall  
63 obtain and consider results of a search of the child abuse and neglect central registry of any individual  
64 who is the subject of a child abuse or neglect investigation conducted under this section when there is  
65 evidence of child abuse or neglect and the local board is evaluating the safety of the home and whether  
66 removal will protect a child from harm. The local board shall determine whether the individual has resided  
67 in another state within at least the preceding five years and, if he has resided in another state, the local  
68 board shall request a search of the child abuse and neglect registry or equivalent registry maintained by  
69 such state. The local board also may obtain such a criminal records or registry search on all adult  
70 household members residing in the home where the individual who is the subject of the investigation  
71 resides and the child resides or visits. If a child abuse or neglect petition is filed in connection with such  
72 removal, a court may admit such information as evidence. Where the individual who is the subject of such  
73 information contests its accuracy through testimony under oath in hearing before the court, no court shall  
74 receive or consider the contested criminal history record information without certified copies of  
75 conviction. Further dissemination of the information provided to the local board is prohibited, except as  
76 authorized by law.

77           D. A person who has not previously participated in the investigation of complaints of child abuse  
78 or neglect in accordance with this chapter shall not participate in the investigation of any case involving a

complaint of alleged sexual abuse of a child unless he (i) has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child or (ii) is under the direct supervision of a person who has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child. No individual may make a determination of whether a case involving a complaint of alleged sexual abuse of a child is founded or unfounded unless he has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child.

**§ 63.2-1506. Family assessments by local departments.**

A. A family assessment requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child;
4. Whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth; and
5. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services.

B. When a local department has been designated as a child-protective services differential response system participant by the Department pursuant to § 63.2-1504 and responds to the report or complaint by conducting a family assessment, the local department shall:

1. Conduct an immediate family assessment and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;

2. Obtain and consider the results of a search of the child abuse and neglect registry for any individual who is the subject of a family assessment. The local board shall determine whether the individual has resided in another state within at least the preceding five years, and, if he has resided in another state, the local board shall request a search of the child abuse and neglect registry or equivalent

registry maintained by such state. The local board also may obtain and consider, in accordance with regulations of the Board, statewide criminal history record information from the Central Criminal Records Exchange for any individual who is the subject of a family assessment.

3. Immediately contact the subject of the report and the family of the child alleged to have been abused or neglected and give each a written and an oral explanation of the family assessment procedure. The family assessment shall be in writing and shall be completed in accordance with Board regulation;

~~3.~~4. Complete the family assessment within 45 days and transmit a report to such effect to the Department and to the person who is the subject of the family assessment. However, upon written justification by the local department, the family assessment may be extended, not to exceed a total of 60 days;

~~4.~~5. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family. Families have the option of declining the services offered as a result of the family assessment. If the family declines the services, the case shall be closed unless the local department determines that sufficient cause exists to redetermine the case as one that needs to be investigated. In no instance shall a case be redetermined as an investigation solely because the family declines services;

~~5.~~6. Petition the court for services deemed necessary;

~~6.~~7. Make no disposition of founded or unfounded for reports in which a family assessment is completed. Reports in which a family assessment is completed shall not be entered into the central registry contained in § 63.2-1515; and

~~7.~~8. Commence an immediate investigation, if at any time during the completion of the family assessment, the local department determines that an investigation is required.

C. When a local department has been designated as a child-protective services differential response agency by the Department, the local department may investigate any report of child abuse or neglect, but the following valid reports of child abuse or neglect shall be investigated: (i) sexual abuse, (ii) child fatality, (iii) abuse or neglect resulting in serious injury as defined in § 18.2-371.1, (iv) cases involving a child's being left alone in the same dwelling with a person to whom the child is not related by blood or

133 marriage and who has been convicted of an offense against a minor for which registration is required as a  
134 violent sexual offender pursuant to § 9.1-902, (v) child has been taken into the custody of the local  
135 department, or (vi) cases involving a caretaker at a state-licensed child day center, religiously exempt  
136 child day center, licensed, registered or approved family day home, private or public school, hospital or  
137 any institution. If a report or complaint is based upon one of the factors specified in subsection B of §  
138 63.2-1509, the local department shall (a) conduct a family assessment, unless an investigation is required  
139 pursuant to this subsection or other provision of law or is necessary to protect the safety of the child, and  
140 (b) develop a plan of safe care in accordance with federal law, regardless of whether the local department  
141 makes a finding of abuse or neglect.

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